

# EXHIBIT P

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**Sent:** Thursday, November 16, 2023 10:07 PM  
**To:** Daniel Bitton; Wolin, Michael (ATR); Freeman, Michael (ATR); Gudowski, Milosz (ATR); GARRETT, Tyler; MAHR, Eric (EJM); ELMER, Julie (JSE); EWALT, Andrew (AJE); MCCALLUM, Robert; KAPLIN, Lauren; BAYOUMI, Jeanette; TU, Xiaoxi; Craig.Reilly@ccreillylaw.com; Koren W. Wong-Ervin; Kkdunn@paulweiss.com; jrhee@paulweiss.com; wisaacson@paulweiss.com; jaz@kellerpostman.com; marissa.spalding@kellerpostman.com; trevor.young@oag.texas.gov; Thomas.ray@oag.texas.gov; ccoslett@bm.net; gzelcs@koreintillery.com; Pkorologos@BSFLLP.com; mmao@BSFLLP.com; iearnhardt@BSFLLP.com; jelias@girardsharp.com; hkelston@ahdootwolfson.com; tmaya@ahdootwolfson.com; sdavidson@rgrdlaw.com; svash@hermanjones.com; jthorne@kellogghansen.com; jrubin@moginrubin.com; joliver@moginrubin.com; fisquith@zsz.com; kmbaxter-kauf@locklaw.com; pmarkert@cerallp.com; emaier@kellogghansen.com; cgoodnow@kellogghansen.com; shenningson@kellogghansen.com; dbird@kellogghansen.com; hkelston@ahdootwolfson.com; mbock@girardsharp.com; KLv@KoreinTillery.com; wnoss@koreintillery.com; Jonathan Wilkerson; Alex J. Brown; tmaya@ahdootwolfson.com; kdunn@paulweiss.com; Bradley Justus; GRP-Google-AdTech-EXTERNAL; LEONARD, Claire; SALEM, Sara  
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**Subject:** Re: Notices: [REDACTED] and [REDACTED]  
**Attachments:** 2023.11.03 - Cross Notice of Deposition - [REDACTED] (2).pdf

Dan,

It was good talking with you on Friday.

The depositions of Mr. [REDACTED] (noticed on 7/19/23), Mr. [REDACTED] (noticed on 8/17/23), Mr. [REDACTED] (noticed on 8/3/23), and Mr. [REDACTED] (originally cross-noticed 8/02/23, then amended on 10/30/23) were cross-noticed by the State Plaintiffs before the States Plaintiffs were remanded from the MDL and will accordingly count toward any limitation count of depositions attributable to the State Plaintiffs in EDTX.

The State Plaintiffs did not participate in cross noticing any other deponents and specifically did not cross-notice Mr. [REDACTED] on November 3, 2023. As you are aware, the *Texas v. Google* case was remanded on November 1, 2023 and at that point the State Plaintiffs were

no longer part of the MDL, no longer part of the Discovery Steering Committee for the MDL, and did not sign onto the MDL Plaintiffs' cross notice of Mr. [REDACTED].

Although the MDL Plaintiffs elected to cross-notice Mr. [REDACTED], the State Plaintiffs did not (see attached cross-notice from the remaining members of the MDL Discovery Steering Committee (Phil Korologos, Serina Vash, and Jordan Elias). When Google asked on the afternoon of November 9, 2023 who from the State Plaintiffs would be participating/attending the [REDACTED] deposition, I emailed you and Google and at 2am ET "to quickly point out that the State Plaintiffs (EDTX) were not part of the MDL Plaintiffs' cross-notice for Mr. [REDACTED] as the cross-notice was issued post-remand and the State Plaintiffs did not issue the Notice of Deposition nor sign on to the Notice." I also brought this issue up during the meet and confer later that morning.

So, your characterization that the State Plaintiffs "*claim* not to be part of the MDL Plaintiffs' cross-notice of Mr. [REDACTED]" is very odd phrasing as the fact of the matter is that the State Plaintiffs simply are not part of the MDL and did not sign on to the cross notice. The MDL Plaintiffs (including the State Plaintiffs) have made it clear in correspondence with Google that "based on material developments in litigation, including upon Google's production of additional documents or Plaintiffs' assessment of its recent privilege logs" it was not practicable to take certain depositions. This is the case, for example, for Mr. [REDACTED], Ms. [REDACTED], etc., as well as the case for the State Plaintiffs for Mr. [REDACTED]. The fact of the matter is that Google has produced some 9.9 million pages of documents since September 1, 2023 and as Google and Axinn is aware there have been significant issues with the State Plaintiffs' ability to even access the majority of those documents.

The State Plaintiffs have been and will continue to be accommodating Google in coordinating depositions with the other Plaintiffs to minimize the burden on Google wherever reasonably possible. However, our ability to do so is dependent on Google timely producing relevant documents prior to the deposition. Google has failed to do so and now attempts to blame the State Plaintiffs for Google's failings. Google's attempt to reframe the conversation into a "it's your fault not ours" is really quite astonishing and brazen.

Google, not the State Plaintiffs, failed to review over 16 million documents it collected for production. Google then failed to timely produce the documents. Indeed, millions of documents are just now being received and ingested as Google, not the State Plaintiffs, decided to provide the documents to the DOJ before us. In addition to the documents being untimely produced (and still being produced), Google's production had voluminous technical issues that hinder review. Further, Google has made no representations that the discovery ordered by Judge Castel three weeks ago on October 23, 2023 is completed. These failures do not even include the issues of Google's deficient privilege log and its over-redacting/withholding addressed in our pending November 12, 2023 letter. (I will note that the 250,000 entries on the Google's initial privilege log was served before Google's 16 million document discovery failure discussed above and before Google reviewed and produced the majority of its documents produced to date. We assume, based on Google's past conduct and Judge Donato's "forming deep concern that there is an ingrained systemic culture of suppression of relevant evidence" that Google's follow-up privilege log will be of Epic proportions.)

Accordingly, we decline Google's demand that the State Plaintiffs either (i) depose witnesses before Google satisfies even its basic discovery obligations or (ii) somehow are at "risk" of not being able to take depositions when Google finally substantially completes its production and with sufficient time for the sovereigns to review and prepare. Whether another Plaintiff decides to take a deposition is of no moment. None of this changes the fact that Google's

discovery failures and substantial withholding of documents have impacted the schedule in which the sovereign states can adequately take a deposition to prosecute its claims on behalf of its citizens.

We will address this issue with Judge Jordan on November 20, 2023 as it has been raised in both parties' status reports.

Zeke

**From:** "Bitton, Daniel S." <dbitton@axinn.com>

**Date:** Wednesday, November 15, 2023 at 8:29 AM

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**Subject:** RE: Notices: [REDACTED] and [REDACTED]

Zeke,

During our call on Friday, you indicated that State Plaintiffs take the position that the previously noticed depositions of Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] will all count as depositions taken in the EDTX matter.

We understand State Plaintiffs to take a different position as to Mr. [REDACTED]'s deposition on November 17 on the grounds that State Plaintiffs claim not to be part of the MDL Plaintiffs' cross-notice of Mr. [REDACTED]. To the extent State Plaintiffs take the position that they have preserved the right (or otherwise have the right) to depose Mr. [REDACTED] at another time in the EDTX matter, we disagree with that position. If State Plaintiffs choose not to participate in Mr. [REDACTED]'s deposition on November 17, they do so at their own risk.

**Daniel S. Bitton**

*Partner*



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Pronouns | He, Him, His

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**Subject:** RE: Notices: [REDACTED] and [REDACTED]

Zeke,

Do you have time today at 4:15 pm ET or after to talk? If so, let me know where I can best reach you.

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**Sent:** Thursday, November 9, 2023 11:12 PM

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**Subject:** Re: Notices: [REDACTED] and [REDACTED]

### **Caution: External Email**

Daniel,

Thank you for your email. I wanted to quickly point out that the State Plaintiffs (EDTX) were not part of the MDL Plaintiffs' cross-notice for Mr. [REDACTED] as the cross-notice was issued post-remand and the State Plaintiffs did not issue the Notice of Deposition nor sign on to the Notice.

I am happy to get on a call to discuss if helpful.

Have a great weekend.

Zeke

Zeke DeRose III - Attorney p: 713-659-5200 w: [www.LanierLawFirm.com](http://www.LanierLawFirm.com)

**From:** "Bitton, Daniel S." <[dbitton@axinn.com](mailto:dbitton@axinn.com)>

**Date:** Thursday, November 9, 2023 at 12:33 PM

**To:** "Wolin, Michael (ATR)" <[Michael.Wolin@usdoj.gov](mailto:Michael.Wolin@usdoj.gov)>, "Freeman, Michael (ATR)" <[Michael.Freeman@usdoj.gov](mailto:Michael.Freeman@usdoj.gov)>, "Gudzowski, Milosz (ATR)" <[Milosz.Gudzowski@usdoj.gov](mailto:Milosz.Gudzowski@usdoj.gov)>, "Tyler.Garrett@freshfields.com" <[Tyler.Garrett@freshfields.com](mailto:Tyler.Garrett@freshfields.com)>, "Eric.MAHR@freshfields.com" <[Eric.MAHR@freshfields.com](mailto:Eric.MAHR@freshfields.com)>, "Julie.Elmer@freshfields.com" <[Julie.Elmer@freshfields.com](mailto:Julie.Elmer@freshfields.com)>, "Andrew.Ewalt@freshfields.com" <[Andrew.Ewalt@freshfields.com](mailto:Andrew.Ewalt@freshfields.com)>, "rob.mccallum@freshfields.com" <[rob.mccallum@freshfields.com](mailto:rob.mccallum@freshfields.com)>, "lauren.kaplin@freshfields.com" <[lauren.kaplin@freshfields.com](mailto:lauren.kaplin@freshfields.com)>, "Jeanette.Bayoumi@freshfields.com" <[Jeanette.Bayoumi@freshfields.com](mailto:Jeanette.Bayoumi@freshfields.com)>, "Xiaoxi.Tu@freshfields.com" <[Xiaoxi.Tu@freshfields.com](mailto:Xiaoxi.Tu@freshfields.com)>, "Craig.Reilly@ccreillylaw.com" <[Craig.Reilly@ccreillylaw.com](mailto:Craig.Reilly@ccreillylaw.com)>, "Wong-Ervin, Koren W." <[kwongervin@axinn.com](mailto:kwongervin@axinn.com)>, "Kkdunn@paulweiss.com" <[Kkdunn@paulweiss.com](mailto:Kkdunn@paulweiss.com)>, "jrhee@paulweiss.com" <[jrhee@paulweiss.com](mailto:jrhee@paulweiss.com)>, "wisaacson@paulweiss.com" <[wisaacson@paulweiss.com](mailto:wisaacson@paulweiss.com)>, Zeke DeRose III <[Zeke.DeRose@LanierLawFirm.com](mailto:Zeke.DeRose@LanierLawFirm.com)>, "jaz@kellerpostman.com" <[jaz@kellerpostman.com](mailto:jaz@kellerpostman.com)>, "marissa.spalding@kellerpostman.com" <[marissa.spalding@kellerpostman.com](mailto:marissa.spalding@kellerpostman.com)>, "trevor.young@oag.texas.gov" <[trevor.young@oag.texas.gov](mailto:trevor.young@oag.texas.gov)>, "Thomas.ray@oag.texas.gov" <[Thomas.ray@oag.texas.gov](mailto:Thomas.ray@oag.texas.gov)>, "ccoslett@bm.net" <[ccoslett@bm.net](mailto:ccoslett@bm.net)>, "gzclcs@koreintillery.com" <[gzclcs@koreintillery.com](mailto:gzclcs@koreintillery.com)>, "Pkorologos@BSFLLP.com" <[Pkorologos@BSFLLP.com](mailto:Pkorologos@BSFLLP.com)>, "mmao@BSFLLP.com" <[mmao@BSFLLP.com](mailto:mmao@BSFLLP.com)>, "learnhardt@BSFLLP.com" <[learnhardt@BSFLLP.com](mailto:learnhardt@BSFLLP.com)>, "jeliass@girardsharp.com" <[jeliass@girardsharp.com](mailto:jeliass@girardsharp.com)>, "hkelston@ahdootwolfson.com" <[hkelston@ahdootwolfson.com](mailto:hkelston@ahdootwolfson.com)>, "tmaya@ahdootwolfson.com" <[tmaya@ahdootwolfson.com](mailto:tmaya@ahdootwolfson.com)>, "sdauidson@rgrdlaw.com" <[sdauidson@rgrdlaw.com](mailto:sdauidson@rgrdlaw.com)>, "svash@hermanjones.com" <[svash@hermanjones.com](mailto:svash@hermanjones.com)>, "jthorne@kellogghansen.com" <[jthorne@kellogghansen.com](mailto:jthorne@kellogghansen.com)>, "jrubin@moginrubin.com" <[jrubin@moginrubin.com](mailto:jrubin@moginrubin.com)>, "joliver@moginrubin.com" <[joliver@moginrubin.com](mailto:joliver@moginrubin.com)>, "fisquith@zsz.com" <[fisquith@zsz.com](mailto:fisquith@zsz.com)>, "kmbaxter-kauf@locklaw.com" <[kmbaxter-kauf@locklaw.com](mailto:kmbaxter-kauf@locklaw.com)>, "pmarkert@cerallp.com" <[pmarkert@cerallp.com](mailto:pmarkert@cerallp.com)>, "emaier@kellogghansen.com" <[emaier@kellogghansen.com](mailto:emaier@kellogghansen.com)>, "cgoodnow@kellogghansen.com" <[cgoodnow@kellogghansen.com](mailto:cgoodnow@kellogghansen.com)>, "shenningson@kellogghansen.com" <[shenningson@kellogghansen.com](mailto:shenningson@kellogghansen.com)>, "dbird@kellogghansen.com" <[dbird@kellogghansen.com](mailto:dbird@kellogghansen.com)>, "hkelston@ahdootwolfson.com" <[hkelston@ahdootwolfson.com](mailto:hkelston@ahdootwolfson.com)>, "mbock@girardsharp.com" <[mbock@girardsharp.com](mailto:mbock@girardsharp.com)>, "KLv@KoreinTillery.com" <[KLv@KoreinTillery.com](mailto:KLv@KoreinTillery.com)>, "wnoss@koreintillery.com" <[wnoss@koreintillery.com](mailto:wnoss@koreintillery.com)>, Jonathan Wilkerson <[Jonathan.Wilkerson@LanierLawFirm.com](mailto:Jonathan.Wilkerson@LanierLawFirm.com)>, "Alex J. Brown" <[Alex.Brown@LanierLawFirm.com](mailto:Alex.Brown@LanierLawFirm.com)>, "tmaya@ahdootwolfson.com" <[tmaya@ahdootwolfson.com](mailto:tmaya@ahdootwolfson.com)>, "kdunn@paulweiss.com" <[kdunn@paulweiss.com](mailto:kdunn@paulweiss.com)>, "Justus, Bradley" <[bjustus@axinn.com](mailto:bjustus@axinn.com)>, GRP-Google-AdTech-EXTERNAL <[GRP-Google-AdTech-EXTERNAL@paulweiss.com](mailto:GRP-Google-AdTech-EXTERNAL@paulweiss.com)>, "LEONARD, Claire" <[Claire.Leonard@freshfields.com](mailto:Claire.Leonard@freshfields.com)>, "SALEM, Sara" <[Sara.Salem@freshfields.com](mailto:Sara.Salem@freshfields.com)>

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**Subject:** RE: Notices: [REDACTED] and [REDACTED]

Counsel,

In light of a pre-existing commitment late in the day on Thursday of next week, Mr. [REDACTED] needs to wrap things up by 5:30 pm ET that day. Let's therefore start his deposition on Thursday at 8:30 a.m. ET. The address for the deposition on Thursday and Friday is Axinn's office at 114 West 47<sup>th</sup> Street, between 6<sup>th</sup> and 7<sup>th</sup> avenues, 22<sup>nd</sup> floor. Please let us know who will be attending for the EDVA and SDNY/EDTX Plaintiffs.

**Daniel S. Bitton**

*Partner*



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Pronouns | He, Him, His

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**From:** Bitton, Daniel S. <[dbitton@axinn.com](mailto:dbitton@axinn.com)>

**Sent:** Friday, November 3, 2023 6:28 PM

**To:** Wolin, Michael (ATR) <[Michael.Wolin@usdoj.gov](mailto:Michael.Wolin@usdoj.gov)>; Freeman, Michael (ATR) <[Michael.Freeman@usdoj.gov](mailto:Michael.Freeman@usdoj.gov)>; Gudzowski, Milosz (ATR) <[Milosz.Gudzowski@usdoj.gov](mailto:Milosz.Gudzowski@usdoj.gov)>; [Tyler.Garrett@freshfields.com](mailto:Tyler.Garrett@freshfields.com); [Eric.MAHR@freshfields.com](mailto:Eric.MAHR@freshfields.com); [Julie.Elmer@freshfields.com](mailto:Julie.Elmer@freshfields.com); [Andrew.Ewalt@freshfields.com](mailto:Andrew.Ewalt@freshfields.com); [rob.mccallum@freshfields.com](mailto:rob.mccallum@freshfields.com); [lauren.kaplin@freshfields.com](mailto:lauren.kaplin@freshfields.com); [Jeanette.Bayoumi@freshfields.com](mailto:Jeanette.Bayoumi@freshfields.com); [Xiaoxi.Tu@freshfields.com](mailto:Xiaoxi.Tu@freshfields.com); [Craig.Reilly@ccreillylaw.com](mailto:Craig.Reilly@ccreillylaw.com); Wong-Ervin, Koren W. <[kwongervin@axinn.com](mailto:kwongervin@axinn.com)>; [Kkdunn@paulweiss.com](mailto:Kkdunn@paulweiss.com); [jrhee@paulweiss.com](mailto:jrhee@paulweiss.com); [wisaacson@paulweiss.com](mailto:wisaacson@paulweiss.com); [Zeke.DeRose@lanierlawfirm.com](mailto:Zeke.DeRose@lanierlawfirm.com); [jaz@kellerpostman.com](mailto:jaz@kellerpostman.com); [marissa.spalding@kellerpostman.com](mailto:marissa.spalding@kellerpostman.com); [trevor.young@oag.texas.gov](mailto:trevor.young@oag.texas.gov); [Thomas.ray@oag.texas.gov](mailto:Thomas.ray@oag.texas.gov); [ccoslett@bm.net](mailto:ccoslett@bm.net); [gzelcs@koreintillery.com](mailto:gzelcs@koreintillery.com); [Pkorologos@BSFLLP.com](mailto:Pkorologos@BSFLLP.com); [mmao@BSFLLP.com](mailto:mmao@BSFLLP.com); [iearnhardt@BSFLLP.com](mailto:iearnhardt@BSFLLP.com); [jelias@girardsharp.com](mailto:jelias@girardsharp.com); [hkelston@ahdootwolfson.com](mailto:hkelston@ahdootwolfson.com); [tmaya@ahdootwolfson.com](mailto:tmaya@ahdootwolfson.com); [sdavidson@rgrdlaw.com](mailto:sdavidson@rgrdlaw.com); [svash@hermanjones.com](mailto:svash@hermanjones.com); [jthorne@kellogghansen.com](mailto:jthorne@kellogghansen.com); [jrubin@moginrubin.com](mailto:jrubin@moginrubin.com); [joliver@moginrubin.com](mailto:joliver@moginrubin.com); [fisquith@zsz.com](mailto:fisquith@zsz.com); [kmbaxter-kauf@locklaw.com](mailto:kmbaxter-kauf@locklaw.com); [pmarkert@cerallp.com](mailto:pmarkert@cerallp.com); [emaier@kellogghansen.com](mailto:emaier@kellogghansen.com); [cgoodnow@kellogghansen.com](mailto:cgoodnow@kellogghansen.com);

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Subject: RE: Notices: [REDACTED] and [REDACTED]

Counsel,

Mr. [REDACTED]'s deposition will take place at Axinn's NY office.

**Daniel S. Bitton**  
*Partner*



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Pronouns | He, Him, His

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**From:** Wolin, Michael (ATR) <[Michael.Wolin@usdoj.gov](mailto:Michael.Wolin@usdoj.gov)>

**Sent:** Friday, November 3, 2023 12:19 PM

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**Caution:External Email**

Daniel,

We agree to take Mr. [REDACTED]'s deposition in New York City on November 16. Please advise as to the specific location as soon as you can.

Regards,  
Michael Wolin

**Michael Wolin** (he/him)  
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**Sent:** Friday, November 3, 2023 1:55 PM

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Michael,

Mr. [REDACTED] can make himself available for a deposition on November 16 in New York.

**Daniel S. Bitton**

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Pronouns | He, Him, His

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Thanks.

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Pronouns: He, Him, His

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